

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Shortwave Modernization Coalition Petition for)	RM-11953
Rulemaking to Amend the Commission's Rules to)	
Allow Fixed, Long-Distance, Non-Voice)	
Communications Above 2 MHz and Below 25)	
MHz)	

ORDER

Adopted: August 11, 2023

Released: August 11, 2023

By the Chief, Wireless Telecommunications Bureau:

1. On June 30, 2023, the Office of Managing Director released a Public Notice¹ seeking comment on a Petition filed by Shortwave Modernization Coalition (SMC) requesting that the Commission initiate a rulemaking to amend its rules to allow fixed, long-distance non-voice communications above 2 MHz and below 25 MHz.² On July 31, 2023, the Bureau released an Order in response to motions filed by Skywave Networks LLC (Skywave) and FlexRadio Systems (FlexRadio),³ and declined to extend the deadlines for submitting comments to the SMC Petition.⁴ In denying the Skywave and FlexRadio petitions, the Bureau noted the preliminary nature of the proceeding, in which the Commission is considering whether to act on a petition for rulemaking, as opposed to considering substantive changes to its rules.⁵ The Bureau reasoned that parties would have the opportunity to fully participate in the proceeding in the event the Commission opts to issue a Notice of Proposed Rulemaking.⁶

2. On August 4, 2023, SMC filed a motion to extend the deadline for submitting replies to comments filed regarding the SMC Petition by fifteen days.⁷ SMC argues that it discovered that its counsel has a conflict of interest with one of the parties that filed comments in opposition to the SMC Petition.⁸ SMC thus requests an extension of the deadline, until September 1, 2023, to reply so that it may

¹ *Office of Managing Director Reference Information Center Petition for Rulemakings Filed*, RM-11953, Public Notice, Report No. 3198 (2023).

² Petition for Rulemaking of the Shortwave Modernization Coalition, RM-11953 (filed April 28, 2023), <https://www.fcc.gov/ecfs/document/1042840187330/1> (SMC Petition).

³ Motion for Extension of Time of Skywave Networks LLC, RM-11953, at 1 (filed July 25, 2023), <https://www.fcc.gov/ecfs/document/10724138643054/1>; Motion for Extension of Time of FlexRadio Systems, RM-11953 (filed July 26, 2023), <https://www.fcc.gov/ecfs/document/107260562510210/1>.

⁴ *Shortwave Modernization Coalition Petition for Rulemaking to Amend the Commission's Rules to Allow Fixed, Long-Distance, Non-Voice Communications Above 2 MHz and Below 25 MHz*, RM-11953, Order, 2023 WL 4930836 (WTB 2023) (Skywave/FlexRadio Order).

⁵ *Id.* at 1.

⁶ *Id.*

⁷ Motion for Extension of Time and Request for Waiver of the Shortwave Modernization Coalition, RM-11953 (filed Aug. 4, 2023), <https://www.fcc.gov/ecfs/document/10804220828846/1> (SMC Motion).

⁸ *Id.* at 3.

retain new counsel and respond to the opposing commenter.⁹ SMC argues that extending the deadline for replies would not prejudice any other party to this proceeding or affect the Commission's ability to consider the record.¹⁰ Finally, SMC argues that, if necessary, these facts warrant a waiver of section 1.405(b) of the Commission's rules pursuant to the Commission's section 1.3 waiver standard.¹¹

3. As set forth in section 1.46 of the Commission's rules, extensions of time shall not be routinely granted.¹² As noted, the Bureau recently declined to extend the comment deadline associated with the SMC Petition, based in part on the preliminary nature of the proceeding.¹³ We find that this reasoning applies equally to the instant request for relief. As SMC acknowledges, interested parties will have the opportunity to fully participate in the proceeding if the Commission issues a Notice of Proposed Rulemaking.¹⁴ Given the current stage of the proceeding and the timing of the SMC Motion, we do not find the circumstances sufficiently unique or unusual to justify either extending the deadline for reply comments pursuant to section 1.46, or granting a waiver of section 1.405(b).¹⁵

4. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 0.131, 0.331, 1.3, and 1.46 of the Commission's rules, 47 CFR §§ 0.131, 0.331, 1.3, and 1.46, the SMC Motion for Extension of Time and Request for Waiver filed on August 4, 2023, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Joel Taubenblatt

Chief, Wireless Telecommunications Bureau

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 5–6 (citing 47 CFR § 1.3).

¹² 47 CFR § 1.46(a).

¹³ See *Skywave/FlexRadio Order* at 1.

¹⁴ *SMC Petition* at 4–5.

¹⁵ See 47 CFR § 1.3 (permitting waiver of the Commission's rules for good cause shown); see also *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“...a waiver is appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest”).